

House Bill 1369

By: Representatives Oliver of the 83rd, Porter of the 143rd, Hugley of the 133rd, Smyre of the 132nd, Ashe of the 56th, and others

A BILL TO BE ENTITLED
AN ACT

To amend Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions applicable to counties and municipal corporations, so as to create provisions relating to complaints or information regarding fraud, waste, and abuse in counties or municipal corporations; to provide for definitions; to provide for practice and procedure; to provide for relief in the event a civil action is instituted; to provide for related matters; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 60 of Title 36 of the Official Code of Georgia Annotated, relating to general provisions applicable to counties and municipal corporations, is amended by adding a new Code section to the end of the chapter to read as follows:

"36-60-24.

(a) As used in this Code section, the term:

(1) 'Government agency' means any agency of federal, state, or local government charged with the enforcement of laws, rules, or regulations.

(2) 'Law, rule, or regulation' includes any federal, state, or local statute or ordinance or any rule or regulation adopted according to any federal, state, or local statute or ordinance.

(3) 'Public employee' means any person who is employed by the executive, judicial, or legislative branch of a county, a municipal corporation, or the state, or by any other department, board, bureau, commission, authority, or other agency of the state, a county, or a municipal corporation.

(4) 'Public employer' means the executive, judicial, or legislative branch of a county, a municipal corporation, or the state, or any other department, board, bureau, commission,

1 authority, or other agency of the state, a county, or a municipal corporation which
2 employs or appoints a public employee or public employees.

3 (5) 'Retaliate' or 'retaliation' refers to the discharge, suspension, or demotion by a public
4 employer of a public employee or any other adverse employment action taken by a public
5 employer against a public employee in the terms or conditions of employment for
6 disclosing a violation of or noncompliance with a law, rule, or regulation to either a
7 supervisor or government agency.

8 (6) 'Supervisor' means any individual:

9 (A) To whom a public employer has given authority to direct and control the work
10 performance of the affected public employee;

11 (B) To whom a public employer has given authority to take corrective action regarding
12 a violation of or noncompliance with a law, rule, or regulation of which the public
13 employee complains; or

14 (C) Who has been designated by a public employer to receive complaints regarding a
15 violation of or noncompliance with a law, rule, or regulation.

16 (b) A public employer may receive and investigate complaints or information from any
17 public employee concerning the possible existence of any activity constituting fraud, waste,
18 and abuse in or relating to any county or municipal corporation programs and operations
19 under the jurisdiction of such public employer.

20 (c) Notwithstanding any other law to the contrary, such public employer shall not after
21 receipt of a complaint or information from a public employee disclose the identity of the
22 public employee without the written consent of such public employee, unless the public
23 employer determines such disclosure is necessary and unavoidable during the course of the
24 investigation. In such event, the public employee shall be notified in writing at least seven
25 days prior to such disclosure.

26 (d)(1) No public employer shall make, adopt, or enforce any policy or practice preventing
27 a public employee from disclosing a violation of or noncompliance with a law, rule, or
28 regulation to either a supervisor or a government agency.

29 (2) No public employer shall retaliate against a public employee for disclosing a
30 violation of or noncompliance with a law, rule, or regulation to either a supervisor or a
31 government agency, unless the disclosure was made with knowledge that the disclosure
32 was false or with reckless disregard for its truth or falsity.

33 (3) No public employer shall retaliate against a public employee for objecting to or
34 refusing to participate in any activity, policy, or practice of the public employer that the
35 public employee has reasonable cause to believe is in violation of or noncompliance with
36 a law, rule, or regulation.

(4) Paragraphs (1), (2), and (3) of this subsection shall not apply to policies or practices which implement, or to actions by public employers against public employees who violate, privilege or confidentiality obligations recognized by constitutional, statutory, or common law.

(e)(1) A public employee who has been the object of retaliation in violation of this Code section may institute a civil action in superior court for relief as set forth in paragraph (2) of this subsection within one year after discovering the retaliation or within three years after the retaliation, whichever is earlier.

(2) In any action brought pursuant to this subsection, the court may order any or all of the following relief:

(A) An injunction restraining continued violation of this Code section;

(B) Reinstatement of the employee to the same position held before the retaliation or to an equivalent position;

(C) Reinstatement of full fringe benefits and seniority rights;

(D) Compensation for lost wages, benefits, and other remuneration; and

(E) Any other compensatory damages allowable at law.

(f) A court may award reasonable attorney's fees, court costs, and expenses to a prevailing public employee."

SECTION 2.

All laws and parts of laws in conflict with this Act are repealed.